

their own factfinding or arbitration procedures in lieu of the Board of Inquiry procedure. We encourage the parties, both unions and management, to take advantage of these and other options and to work with the Service to tailor their approach and procedures to fit the needs of their bargaining situations.

## **PART 1425—MEDIATION ASSISTANCE IN THE FEDERAL SERVICE**

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SOURCE: 45 FR 62798, Sept. 22, 1980, unless otherwise noted.

### **§ 1425.1 Definitions.**

As used in this part:

(a) *The Service* means Federal Mediation and Conciliation Service.

(b) *Party* or *Parties* means (1) any appropriate activity, facility, geographical subdivision, or combination thereof, of an agency as that term is defined in 5 U.S.C. 7103(3), or (2) a labor organization as that term is defined in 5 U.S.C. 7103(4).

(c) *Third-party mediation assistance* means mediation by persons other than FMCS commissioners.

(d) *Provide its services* means to make the services and facilities of the Service available either on its own motion or upon the special request of one or both of the parties.

### **§ 1425.2 Notice to the Service of agreement negotiations.**

(a) In order that the Service may provide assistance to the parties, the party initiating negotiations shall file a notice with the FMCS Notice Processing Unit, 2100 K Street, N.W., Washington, D.C. 20427, at least 30 days prior to the expiration or modification date of an existing agreement, or 30 days prior to the reopener date of an existing agreement. In the case of an initial

agreement the notice shall be filed within 30 days after commencing negotiations.

(b) Parties engaging in mid-term or impact and/or implementation bargaining are encouraged to send a notice to FMCS if assistance is desired. Such notice may be sent by either party or may be submitted jointly. In regard to such notices a brief listing should be general in nature e.g., smoking policies, or Alternative Work Schedules (AWS).

(c) Parties requesting grievance mediation must send a request signed by both the union and the agency involved. Receipt of such request does not commit FMCS to provide its services. FMCS has the discretion to determine whether or not to perform grievance mediation, as such service may not be appropriate in all cases.

(d) The guidelines for FMCS grievance mediation are:

(1) The parties shall submit a joint request, signed by both parties requesting FMCS assistance. The parties agree that grievance mediation is a supplement to, and not a substitute for, the steps of the contractual grievance procedure.

(2) The grievant is entitled to be present at the grievance mediation conference.

(3) Any time limits in the parties labor agreement must be waived to permit the grievance to proceed to arbitration should mediation be unsuccessful.

(4) Proceedings before the mediator will be informal and rules of evidence do not apply. No record, stenographic or tape recordings of the meetings will be made. The mediators notes are confidential and content shall not be revealed.

(5) The mediator shall conduct the mediation conference utilizing all of the customary techniques associated with mediation including the use of separate caucuses.

(6) The mediator had no authority to compel resolution of the grievance.

(7) In the event that no settlement is reached during the mediation conference, the mediator may provide the parties either in separate or joint session with an oral advisory opinion.